

SENATE AMENDMENTS

2nd Printing

By: Krause

H.B. No. 1758

A BILL TO BE ENTITLED

AN ACT

relating to law enforcement's use of force by means of a drone.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.33 to read as follows:

Art. 2.33. LAW ENFORCEMENT POLICY ON USE OF FORCE BY DRONE.

(a) In this article:

(1) "Drone" means an unmanned aircraft, watercraft, or ground vehicle or a robotic device that:

(A) is controlled remotely by a human operator;

or

(B) operates autonomously through computer software or other programming.

(2) "Law enforcement agency" means an agency of the state or an agency of a political subdivision of the state authorized by law to employ peace officers.

(b) Each law enforcement agency shall:

(1) adopt a written policy regarding the agency's use of force by means of a drone and update the policy as necessary; and

(2) not later than January 1 of each even-numbered year, submit the policy to the Texas Commission on Law Enforcement in the manner prescribed by the commission.

SECTION 2. Subchapter E, Chapter 9, Penal Code, is amended by adding Section 9.54 to read as follows:

1 Sec. 9.54. LIMITATION ON USE OF FORCE BY DRONE. (a) In this
2 section:

3 (1) "Autonomous drone" means a drone that operates
4 autonomously through computer software or other programming.

5 (2) "Drone" and "law enforcement agency" have the
6 meanings assigned by Article 2.33, Code of Criminal Procedure.

7 (b) Notwithstanding any other law, the use of force,
8 including deadly force, involving a drone is justified under this
9 subchapter only if:

10 (1) at the time the use of force occurred, the actor
11 was employed by a law enforcement agency;

12 (2) the use of force:

13 (A) would have been justified under another
14 provision of this subchapter; and

15 (B) did not involve the use of deadly force by
16 means of an autonomous drone; and

17 (3) before the use of force occurred, the law
18 enforcement agency employing the actor adopted and submitted to the
19 Texas Commission on Law Enforcement a policy on the agency's use of
20 force by means of a drone, as required by Article 2.33, Code of
21 Criminal Procedure, and the use of force conformed to the
22 requirements of that policy.

23 SECTION 3. Not later than January 1, 2022, each law
24 enforcement agency in this state shall:

25 (1) adopt the policy required by Article 2.33, Code of
26 Criminal Procedure, as added by this Act; and

27 (2) submit the policy to the Texas Commission on Law

1 Enforcement as required by that article.

2 SECTION 4. Section 9.54, Penal Code, as added by this Act,
3 applies only to an offense committed on or after January 1, 2022.
4 An offense committed before January 1, 2022, is governed by the law
5 in effect on the date the offense was committed, and the former law
6 is continued in effect for that purpose. For purposes of this
7 section, an offense was committed before January 1, 2022, if any
8 element of the offense occurred before that date.

9 SECTION 5. This Act takes effect September 1, 2021.

ADOPTED

MAY 24 2021

Latey Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Larry Taylor*

1 Amend H.B. No. 1758 (senate committee report) as follows:

2 (1) In SECTION 1 of the bill, in added Article 2.33(b), Code
3 of Criminal Procedure (page 1, line 30), between "agency" and
4 "shall", insert "that uses or intends to use a drone for law
5 enforcement purposes".

6 (2) In SECTION 1 of the bill, in added Article 2.33(b)(1),
7 Code of Criminal Procedure (page 1, line 32), between "drone" and
8 "and update", insert ", before the agency first uses a drone,".

9 (3) In SECTION 3 of the bill, in the transition language (page
10 1, line 61), between "state" and "shall", insert "that uses or
11 intends to use a drone, as defined by Article 2.33, Code of
12 Criminal Procedure, as added by this Act, for law enforcement
13 purposes".

FLOOR AMENDMENT NO. 2

BY: Sutwell

1 Amend H.B. No. 1758 (senate committee printing) in SECTION 1
2 of the bill (page 1, lines 21-22), by striking ", watercraft, or
3 ground vehicle or a robotic device".

ADOPTED
✓
MAY 24 2021

Lacey Spaul
Secretary of the Senate

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 26, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1758 by Krause (Relating to law enforcement's use of force by means of a drone.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

It is assumed that the costs associated with the bill's provisions relating to law enforcement's use of force by means of a drone could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 407 Law Enforcement, 411 Commission on Fire Protection

LBB Staff: JMc, LBO, SLE, CMA, ANE, DKN

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 19, 2021

TO: Honorable Joan Huffman, Chair, Senate Committee on Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1758 by Krause (Relating to law enforcement's use of force by means of a drone.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure and the Penal Code relating to law enforcement's use of force by means of a drone.

It is assumed that the costs associated with the bill could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 407 Law Enforcement, 411 Commission on Fire Protection

LBB Staff: JMc, SLE, CMA, ANE, DKN

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 19, 2021

TO: Honorable James White, Chair, House Committee on Homeland Security & Public Safety

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1758 by Krause (Relating to law enforcement's use of force by means of a drone.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure and the Penal Code relating to law enforcement's use of force by means of a drone.

This analysis assumes implementing the provisions of the bill would not result in a significant impact on state correctional populations or on the demand for state correctional resources and that the costs associated with the bill could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 407 Law Enforcement, 411 Commission on Fire Protection

LBB Staff: JMc, DKN, CMA, ANE

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 24, 2021

TO: Honorable James White, Chair, House Committee on Homeland Security & Public Safety

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1758 by Krause (Relating to the operation and use of an unmanned aircraft; creating a criminal offense.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government and Penal Codes relating to the operation and use of an unmanned aircraft. The offense created by the bill would be a Class A misdemeanor.

This analysis assumes implementing the provisions of the bill addressing sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

According to the Office of Court Administration, no significant fiscal impact to the state court system is anticipated.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, DKN, CMA, ANE

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

87TH LEGISLATIVE REGULAR SESSION

April 19, 2021

TO: Honorable James White, Chair, House Committee on Homeland Security & Public Safety

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1758 by Krause (Relating to law enforcement's use of force by means of a drone.), **Committee Report 1st House, Substituted**

The provisions of the bill addressed by this analysis would amend various codes as they relate to law enforcement's use of force by means of a drone.

This analysis assumes implementing the provisions of the bill would not result in a significant impact on the demand for state correctional resources. The bill does not expressly create a felony offense, increase the punishment for an existing misdemeanor to that of a felony, increase the punishment for an existing felony offense or category of felony level offenses, or change the eligibility of a person for felony community supervision, parole, or mandatory supervision.

Source

Agencies:

LBB Staff: JMc, DKN, LM, DGI

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

87TH LEGISLATIVE REGULAR SESSION

March 24, 2021

TO: Honorable James White, Chair, House Committee on Homeland Security & Public Safety

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1758 by Krause (Relating to the operation and use of an unmanned aircraft; creating a criminal offense.), **As Introduced**

The provisions of the bill addressed by this analysis would amend various codes as they relate to the use of unmanned aircraft. Under the provisions of the bill, in certain circumstances, the operation of an unmanned aircraft equipped with certain weapons would be punishable as a class A misdemeanor, and in certain circumstances the use of force involving such aircraft would be justified.

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in a county jail for a term not to exceed one year, or both. This analysis assumes implementing the provisions of the bill would not result in a significant impact on the demand for state correctional resources.

Source

Agencies:

LBB Staff: JMc, DKN, LM, DGI